

106TH CONGRESS  
1ST SESSION

# H. R. 3483

To amend the Federal securities laws to enhance oversight over certain derivatives dealers and hedge funds, reduce the potential for such entities to increase systemic risk in the financial markets, enhance investor protections, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 1999

Mr. MARKEY introduced the following bill; which was referred to the  
Committee on Commerce

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## A BILL

To amend the Federal securities laws to enhance oversight over certain derivatives dealers and hedge funds, reduce the potential for such entities to increase systemic risk in the financial markets, enhance investor protections, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Derivatives Market Re-  
5       form Act of 1999”.

1 **SEC. 2. DEFINITIONS.**

2 Section 3(a) of the Securities Exchange Act of 1934  
3 (15 U.S.C. 78c(a)) is amended by adding at the end the  
4 following new paragraphs:

5 “(55) The term ‘derivative’ means any financial  
6 contract or other instrument that derives its value  
7 from the value or performance of any security, cur-  
8 rency exchange rate, or interest rate (or group or  
9 index thereof), but does not include—

10 “(A) any security that is traded on a na-  
11 tional securities exchange or on an automated  
12 interdealer quotation system sponsored by a se-  
13 curities association registered under section  
14 15A of this title;

15 “(B) any forward contract which has a  
16 maturity at the time of issuance not exceeding  
17 270 days;

18 “(C) any contract of sale of a commodity  
19 for future delivery, or any option on such a con-  
20 tract, traded or executed on a designated con-  
21 tract market and subject to regulation under  
22 the Commodity Exchange Act; or

23 “(D) any deposit held by a financial insti-  
24 tution.

25 “(56) The term ‘derivatives dealer’ means any  
26 person engaged in the business of buying, selling, or

1 entering into derivatives for his own account, but  
2 does not include—

3 “(A) any person insofar as such person  
4 buys, sells, or enters into derivatives for his own  
5 account, either individually or in a fiduciary ca-  
6 pacity, but not as part of a regular business; or

7 “(B) any financial institution.

8 “(57) The term ‘material associated person’  
9 means any associated person of a broker, dealer,  
10 government securities broker, government securities  
11 dealer, municipal securities dealer, or derivatives  
12 dealer (other than a natural person) whose business  
13 activities are reasonably likely to have a material im-  
14 pact on the financial or operational condition of any  
15 such broker, dealer, government securities broker,  
16 government securities dealer, municipal securities  
17 dealer, or derivatives dealer, including on its net  
18 capital, its liquidity, or its ability to conduct or fi-  
19 nance its operations.

20 “(58) The term ‘person associated with a de-  
21 rivatives dealer’ or ‘associated person of a deriva-  
22 tives dealer’ means any partner, officer, director, or  
23 branch manager of such derivatives dealer (or any  
24 person occupying a similar status or performing  
25 similar functions), and any other employee of such

1 derivatives dealer who is engaged in the manage-  
 2 ment, direction, supervision, or performance of any  
 3 activities relating to derivatives, and any person di-  
 4 rectly or indirectly controlling, controlled by, or  
 5 under common control with such derivatives dealer.

6 “(59) The term ‘designated examining author-  
 7 ity’ means the national securities exchange or reg-  
 8 istered securities association of which a registered  
 9 broker or dealer is a member, and if such broker or  
 10 dealer is a member of more than 1 such self-regu-  
 11 latory organization, the organization designated by  
 12 the Commission as the principal examining authority  
 13 for such broker or dealer.”.

## 14 **TITLE I—DERIVATIVES DEALERS**

### 15 **SEC. 101. DERIVATIVES DEALER REGISTRATION.**

16 The Securities Exchange Act of 1934 is amended by  
 17 inserting after section 15C (15 U.S.C. 78o–5) the fol-  
 18 lowing new section:

#### 19 **“SEC. 15D. DERIVATIVES DEALERS.**

20 **“(a) REGISTRATION REQUIRED.—**

21 **“(1) REGISTRATION OF DERIVATIVES DEAL-**  
 22 **ERS.—**

23 **“(A) REGISTRATION REQUIREMENT.—It**  
 24 **shall be unlawful for any derivatives dealer**  
 25 **(other than a registered broker or dealer, or a**

1 material associated person of a registered  
2 broker or dealer that has filed notice in accord-  
3 ance with subparagraph (B) of this paragraph)  
4 to make use of the mails or any means or in-  
5 strumentality of interstate commerce to effect  
6 any transaction in, or to induce or attempt to  
7 induce the purchase or sale of, any derivative  
8 unless such derivatives dealer is registered in  
9 accordance with paragraph (2) of this sub-  
10 section.

11 “(B) MATERIAL ASSOCIATED PERSONS OF  
12 BROKERS AND DEALERS.—

13 “(i) NOTICE REQUIREMENT.—It shall  
14 be unlawful for any derivatives dealer that  
15 is a material associated person of a reg-  
16 istered broker or dealer (other than a ma-  
17 terial associated person of a registered  
18 broker or dealer that is itself a registered  
19 broker or dealer, or a derivatives dealer  
20 that is registered in accordance with para-  
21 graph (2) of this subsection) to make use  
22 of the mails or any means or instrumen-  
23 tality of interstate commerce to effect any  
24 transaction in, or to induce or attempt to  
25 induce the purchase or sale of, any deriva-

1           tive unless such derivatives dealer has filed  
2           with the Commission written notice that it  
3           is a derivatives dealer. When such a de-  
4           rivatives dealer ceases to act as such it  
5           shall file with the Commission a written  
6           notice that it is no longer acting as a de-  
7           rivatives dealer.

8           “(ii) FORM OF NOTICE.—Such notices  
9           shall be in such form and contain such in-  
10          formation concerning a derivatives dealer  
11          and any persons associated with such de-  
12          rivatives dealer as the Commission shall,  
13          by rule, prescribe as necessary or appro-  
14          priate in the public interest or for the pro-  
15          tection of investors.

16       “(2) REGISTRATION PROCEDURE.—

17       “(A) APPLICATION FOR REGISTRATION.—  
18       A derivatives dealer subject to the registration  
19       requirement of paragraph (1)(A) of this sub-  
20       section may be registered by filing with the  
21       Commission an application for registration in  
22       such form and containing such information and  
23       documents concerning such derivatives dealer  
24       and any of its associated persons as the Com-  
25       mission, by rule, may prescribe as necessary or

1 appropriate in the public interest or for the pro-  
2 tection of investors.

3 “(B) INITIAL ACTION.—Within 45 days of  
4 the date of filing of such application (or within  
5 such longer period as to which the applicant  
6 consents), the Commission shall—

7 “(i) by order grant registration, or

8 “(ii) institute proceedings to deter-  
9 mine whether registration should be de-  
10 nied.

11 “(C) PROCEEDINGS ON APPLICATION.—  
12 Such proceedings shall include notice of the  
13 grounds for denial under consideration and op-  
14 portunity for hearing and shall be concluded  
15 within 120 days of the date of the filing of the  
16 application for registration. At the conclusion of  
17 such proceedings, the Commission, by order,  
18 shall grant or deny such registration. The Com-  
19 mission may extend the time for the conclusion  
20 of such proceedings for up to 90 days if it finds  
21 good cause for such extension and publishes its  
22 reasons for so finding or for such longer period  
23 as to which the applicant consents.

24 “(D) EFFECTIVE DATE OF REGISTRA-  
25 TION.—The order granting registration shall

1 not be effective until such derivatives dealer has  
2 become a member of a securities association  
3 registered under section 15A of this title, unless  
4 the Commission has exempted such derivatives  
5 dealer, by rule or order, from such membership.

6 “(E) GROUNDS FOR DECISION.—The Com-  
7 mission shall grant the registration of a deriva-  
8 tives dealer if the Commission finds that the re-  
9 quirements of this section are satisfied. The  
10 Commission shall deny such registration if it  
11 does not make such a finding or if it finds that  
12 if the applicant were so registered, its registra-  
13 tion would be subject to suspension or revoca-  
14 tion under subsection (c) of this section.

15 “(3) PROHIBITED CONDUCT.—Any provision of  
16 this title (other than section 5 or paragraph (1) of  
17 this subsection) which prohibits any act, practice, or  
18 course of business if the mails or any means or in-  
19 strumentality of interstate commerce is used in con-  
20 nection therewith shall also prohibit any such act,  
21 practice, or course of business by any derivatives  
22 dealer registered or having filed notice under para-  
23 graph (1) of this subsection or any person acting on  
24 behalf of such derivatives dealer, irrespective of any



1 use of the mails or any means or instrumentality of  
2 interstate commerce in connection therewith.

3 “(4) EXEMPTIONS.—The Commission, by rule  
4 or order, upon the Commission’s own motion or  
5 upon application, may conditionally or uncondition-  
6 ally exempt any derivatives dealer, or class of deriva-  
7 tives dealers, from any provision of this section, or  
8 the rules thereunder, if the Commission finds that  
9 such exemption is consistent with the public interest,  
10 the protection of investors, and the purposes of this  
11 title.

12 “(b) RULES.—

13 “(1) AUTHORITY.—The Commission shall pro-  
14 pose and adopt rules to effect the purposes of this  
15 title with respect to transactions in derivatives ef-  
16 fected by derivatives dealers registered or required to  
17 register under subsection (a)(1)(A) of this section as  
18 follows:

19 “(A) FINANCIAL RESPONSIBILITY.—Such  
20 rules shall provide safeguards with respect to  
21 the financial responsibility and related practices  
22 of such derivatives dealers including, but not  
23 limited to, capital adequacy standards and the  
24 carrying and use of customers’ deposits or cred-  
25 it balances.

1           “(B) REPORTS.—Such rules shall require  
2           every such derivatives dealer to make reports to  
3           and furnish copies of records to the Commis-  
4           sion, and to file with the Commission, annually  
5           or more frequently, a balance sheet and income  
6           statement certified by an independent public ac-  
7           countant, prepared on a calendar or fiscal year  
8           basis, and such other financial statements  
9           (which shall, as the Commission specifies, be  
10          certified) and information concerning its finan-  
11          cial condition as required by such rules.

12          “(C) RECORDKEEPING.—Such rules shall  
13          require records to be made and kept by such  
14          derivatives dealers and shall specify the periods  
15          for which such records shall be preserved.

16          “(2) AUTHORITY TO LIMIT DISCLOSURE OF IN-  
17          FORMATION.—Notwithstanding any other provision  
18          of law, the Commission shall not be compelled to  
19          disclose any information required to be kept or re-  
20          ported under rules adopted under paragraph (1) of  
21          this subsection. Nothing in this paragraph shall au-  
22          thorize the Commission to withhold information  
23          from Congress, or prevent the Commission from  
24          complying with a request for information from any  
25          other Federal department or agency requesting the

1 information for purposes within the scope of its ju-  
2 risdiction, or complying with an order of a court of  
3 the United States in an action brought by the  
4 United States or the Commission. For purposes of  
5 section 552 of title 5, United States Code, this para-  
6 graph shall be considered a statute described in sub-  
7 section (b)(3)(B) of such section 552.

8 “(3) FRAUDULENT ACTS AND PRACTICES.—  
9 With respect to any derivatives dealer, the Commis-  
10 sion may, by rule or regulation define, and prescribe  
11 means reasonably designed to prevent, such acts and  
12 practices as are fraudulent, deceptive, or manipula-  
13 tive.

14 “(4) COMPLIANCE WITH RULES UNDER THIS  
15 SECTION.—No derivatives dealer shall make use of  
16 the mails or any means or instrumentality of inter-  
17 state commerce to effect any transaction in, or to in-  
18 duce or attempt to induce the purchase or sale of,  
19 any derivative in contravention of any rule under  
20 this section.

21 “(c) ENFORCEMENT BY THE COMMISSION.—

22 “(1) ADMINISTRATIVE POWERS TO IMPOSE  
23 SANCTIONS.—With respect to any derivatives dealer  
24 registered or required to register under subsection  
25 (a)(1)(A) of this section:

1           “(A) DERIVATIVES DEALERS.—The Com-  
2 mission, by order, shall censure, place limita-  
3 tions on the activities, functions, or operations  
4 of, suspend for a period not exceeding 12  
5 months, or revoke the registration of such de-  
6 rivatives dealer, if it finds, on the record after  
7 notice and opportunity for hearing, that such  
8 censure, placing of limitations, suspension, or  
9 revocation is in the public interest and that  
10 such derivatives dealer, or any person associ-  
11 ated with such derivatives dealer (whether prior  
12 or subsequent to becoming so associated), has  
13 committed or omitted any act or omission enu-  
14 merated in subparagraph (A), (D), (E), or (G)  
15 of paragraph (4) of section 15(b) of this title,  
16 has been convicted of any offense specified in  
17 subparagraph (B) of such paragraph (4) within  
18 10 years of the commencement of the pro-  
19 ceedings under this paragraph, or is enjoined  
20 from any action, conduct, or practice specified  
21 in subparagraph (C) of such paragraph (4).

22           “(B) SUSPENSION OR WITHDRAWAL PEND-  
23 ING FINAL DETERMINATION.—Pending final de-  
24 termination whether registration of any deriva-  
25 tives dealer shall be revoked, the Commission,

1 by order, may suspend such registration, if such  
2 suspension appears to the Commission, after  
3 notice and opportunity for hearing, to be nec-  
4 essary or appropriate in the public interest or  
5 for the protection of investors. Any registered  
6 derivatives dealer may, upon such terms and  
7 conditions as the Commission may deem nec-  
8 essary in the public interest or for the protec-  
9 tion of investors, withdraw from registration by  
10 filing a written notice of withdrawal with the  
11 Commission. If the Commission finds that any  
12 registered derivatives dealer is no longer in ex-  
13 istence or has ceased to do business as a deriva-  
14 tives dealer, the Commission, by order, shall  
15 cancel the registration of such derivatives deal-  
16 er.

17 “(C) ASSOCIATED PERSONS.—The Com-  
18 mission, by order, shall censure or place limita-  
19 tions on the activities or functions of any per-  
20 son associated, or seeking to become associated,  
21 with a derivatives dealer registered or required  
22 to register under subsection (a)(1)(A) of this  
23 section or suspend for a period not exceeding  
24 12 months or bar any such person from being  
25 associated with such a derivatives dealer, if the

1 Commission finds, on the record after notice  
2 and opportunity for hearing, that such censure,  
3 placing of limitations, suspension, or bar is in  
4 the public interest and that such person has  
5 committed or omitted any act or omission enu-  
6 merated in subparagraph (A), (D), (E), or (G)  
7 of paragraph (4) of section 15(b) of this title,  
8 has been convicted of any offense specified in  
9 subparagraph (B) of such paragraph (4) within  
10 10 years of the commencement of the pro-  
11 ceedings under this paragraph, or is enjoined  
12 from any action, conduct, or practice specified  
13 in subparagraph (C) of such paragraph (4).

14 “(2) PERSONS SUSPENDED OR BARRED FROM  
15 ASSOCIATION.—It shall be unlawful for any person  
16 as to whom an order entered pursuant to paragraph  
17 (1) of this subsection suspending or barring him  
18 from being associated with a derivatives dealer is in  
19 effect willfully to become, or to be, associated with  
20 a derivatives dealer without the consent of the Com-  
21 mission, and it shall be unlawful for any derivatives  
22 dealer to permit such a person to become, or remain,  
23 a person associated with it without the consent of  
24 the Commission, if such derivatives dealer knew, or,

1 in the exercise of reasonable care should have  
2 known, of such order.

3 “(d) EXAMINATION OF RECORDS.—All records of a  
4 derivatives dealer registered or required to register under  
5 subsection (a)(1)(A) of this section, or that has filed notice  
6 or is required to file notice under subsection (a)(1)(B) of  
7 this section, are subject at any time, or from time to time,  
8 to such reasonable periodic, special, or other examinations  
9 by representatives of the Commission as the Commission  
10 deems necessary or appropriate in the public interest, for  
11 the protection of investors, or otherwise in furtherance of  
12 the purposes of this title.

13 “(e) SECURITIES ASSOCIATION MEMBERSHIP.—

14 “(1) MEMBERSHIP REQUIREMENT.—It shall be  
15 unlawful for any derivatives dealer registered or re-  
16 quired to register with the Commission under sub-  
17 section (a)(1)(A) of this section to effect any trans-  
18 action in, or induce or attempt to induce the pur-  
19 chase or sale of, any derivative, unless such deriva-  
20 tives dealer is a member of a securities association  
21 registered under section 15A of this title.

22 “(2) EXEMPTION.—The Commission, by rule or  
23 order, as it deems consistent with the public interest  
24 and the protection of investors, may conditionally or  
25 unconditionally exempt from paragraph (1) of this

1 subsection any derivatives dealer or class of deriva-  
 2 tives dealers specified in such rule or order.”.

## 3 **TITLE II—BROKER-DEALER** 4 **OVERSIGHT REFORMS**

### 5 **SEC. 201. DERIVATIVES ON SECURITIES.**

6 Section 3(a)(10) of the Securities Exchange Act of  
 7 1934 (15 U.S.C. 78c(a)(10)) is amended by inserting “de-  
 8 rivative,” after “any put, call, straddle, option,” the first  
 9 place it appears.

### 10 **SEC. 202. NATIONAL SECURITIES EXCHANGES.**

11 Section 6 of the Securities Exchange Act of 1934 (15  
 12 U.S.C. 78f) is amended by adding at the end the following  
 13 new subsection:

14 “(g) **AUTHORITY TO ADOPT RULES RELATING TO**  
 15 **TRANSACTIONS IN DERIVATIVES.**—A national securities  
 16 exchange may adopt and implement rules applicable to  
 17 members of such exchange, and material associated per-  
 18 sons that have filed notice or are required to file notice  
 19 under section 15D(a)(1)(B) of this title and that are asso-  
 20 ciated with members for which the exchange is the des-  
 21 ignated examining authority, who engage in transactions  
 22 in derivatives—

23 “(1) to enforce compliance with applicable pro-  
 24 visions of this title and the rules and regulations  
 25 thereunder;



1           “(2) to provide that any such person shall be  
2           appropriately disciplined for violations of applicable  
3           provisions of this title and the rules and regulations  
4           thereunder;

5           “(3) to provide for reasonable inspection and  
6           examination of the books and records of any such  
7           person;

8           “(4) to prevent fraudulent and manipulative  
9           acts and practices;

10           “(5) to promote just and equitable principles of  
11           trade; and

12           “(6) to require the establishment of, and adher-  
13           ence to, appropriate internal controls structures.”.

14 **SEC. 203. FINANCIAL RESPONSIBILITY.**

15           Section 15(c)(3) of the Securities Exchange Act of  
16 1934 (15 U.S.C. 78o(c)(3)) is amended—

17           (1) by striking “and” at the end of clause (A);  
18           and

19           (2) by inserting after “requirements for all bro-  
20           kers and dealers” the following: “, and (C) require  
21           the maintenance of sufficient capital levels taking  
22           into account the financial activities conducted by,  
23           the customary sources of capital and funding of, and  
24           the credit risk and aggregate leverage of, any deriva-  
25           tives dealer that is a material associated person of

1 the broker or dealer and that has filed notice or is  
 2 required to file notice under section 15D(a)(1)(B) of  
 3 this title”.

4 **SEC. 204. REGISTERED SECURITIES ASSOCIATION.**

5 Section 15A of the Securities Exchange Act of 1934  
 6 (15 U.S.C. 78o–3) is hereby amended by adding at the  
 7 end the following new subsection:

8 “(j) **AUTHORITY TO ADOPT RULES RELATING TO**  
 9 **TRANSACTIONS IN DERIVATIVES.**—A registered securities  
 10 association may adopt and implement rules applicable to  
 11 members of such association, and material associated per-  
 12 sons that have filed notice or are required to file notice  
 13 under section 15D(a)(1)(B) of this title and that are asso-  
 14 ciated with members for which the association is the des-  
 15 ignated examining authority, who engage in transactions  
 16 in derivatives—

17 “(1) to enforce compliance with applicable pro-  
 18 visions of this title and the rules and regulations  
 19 thereunder;

20 “(2) to provide that any such person shall be  
 21 appropriately disciplined, in accordance with sub-  
 22 sections (b)(7), (b)(8), and (h) of this section, for  
 23 violations of applicable provisions of this title and  
 24 the rules and regulations thereunder;

1 “(3) to provide for reasonable inspection and  
2 examination of the books and records of any such  
3 person;

4 “(4) to prevent fraudulent and manipulative  
5 acts and practices;

6 “(5) to promote just and equitable principles of  
7 trade; and

8 “(6) to require the establishment of, and adher-  
9 ence to, appropriate internal controls structures.”.

10 **SEC. 205. RISK ASSESSMENT FOR GOVERNMENT SECURI-**  
11 **TIES BROKERS AND DEALERS.**

12 Section 15C(b)(2) of the Securities Exchange Act of  
13 1934 (15 U.S.C. 78o–5(b)(2)) is amended

14 (1) in subparagraph (A)—

15 (A) by striking “Such records shall de-  
16 scribe, in the aggregate,” in the second sen-  
17 tence and inserting “Such records may be re-  
18 quired to describe”;

19 (B) by striking “summary” in the third  
20 sentence;

21 (2) by redesignating subparagraphs (C) through  
22 (F) as subparagraphs (G) through (J), respectively;

23 (3) by inserting after subparagraph (B) the fol-  
24 lowing new subparagraphs:

“(C) REPORTING BY HOLDING COMPANIES  
AND OTHER MATERIAL ASSOCIATED PER-  
SONS.—Every person, other than a natural per-  
son, who is associated with a government secu-  
rities broker or government securities dealer for  
which the Commission is the appropriate regu-  
latory agency, and whose business activities are  
reasonably likely to have a material impact on  
the financial or operational condition of such  
registered person, including its net capital, its  
liquidity, or its ability to conduct or finance its  
operations, shall make such reports concerning  
the associated person’s policies, procedures, or  
systems for monitoring and controlling the fi-  
nancial and operational risks to the registered  
person and its associated persons as the Sec-  
retary, by rule, prescribes. Such reports may be  
required to describe, without limitation, each of  
the associated person’s financial and securities  
activities, and customary sources of capital and  
funding. The Secretary, by rule, may require  
such reports to be filed with the Commission no  
more frequently than quarterly.

“(D) RECORDKEEPING BY HOLDING COM-  
PANIES AND OTHER MATERIAL ASSOCIATED

1 PERSONS.—All persons subject to the reporting  
2 requirements under subparagraph (C) of this  
3 subsection shall keep and maintain such records  
4 as are necessary to permit the Commission to  
5 verify the information contained in reports filed  
6 with the Commission pursuant to subparagraph  
7 (C).

8 “(E) EXAMINATION OF HOLDING COMPA-  
9 NIES AND OTHER MATERIAL ASSOCIATED PER-  
10 SONS.—All records of persons subject to the re-  
11 porting requirements contained in subpara-  
12 graph (C) of this subsection are subject at any  
13 time, or from time to time, to such reasonable  
14 periodic, special, or other examinations by rep-  
15 resentatives of the Commission as the Commis-  
16 sion deems necessary or appropriate to verify  
17 the information contained in reports filed with  
18 the Commission pursuant to subparagraph (C).

19 “(F) USE OF ALTERNATIVE REPORTS BY  
20 REGISTERED PERSONS AND THEIR HOLDING  
21 COMPANIES AND OTHER MATERIAL ASSOCIATED  
22 PERSONS.—(i) The Secretary, insofar as the  
23 Secretary determines is consistent with the pur-  
24 poses of this title, shall permit persons subject  
25 to the reporting requirements of subparagraphs

(A) and (C) of this paragraph, to use reports otherwise created and maintained to meet the reporting requirements of those subparagraphs.

“(ii) The appropriate regulatory agency, insofar as such agency determines is consistent with the purposes of this title, shall permit persons, subject to the reporting requirements of subparagraph (B) of this paragraph, to use reports otherwise created and maintained to meet the reporting requirement of that subparagraph.”; and

(4) in subparagraphs (G) and (I) (as redesignated by paragraph (2)), by striking “subparagraph (A)” each place it appears and inserting “subparagraphs (A) and (C)”.

**SEC. 206. RISK ASSESSMENT FOR BROKERS AND DEALERS.**

Section 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(h)) is amended—

(1) in paragraph (1)—

(A) by striking “Such records shall describe, in the aggregate,” in the second sentence and inserting “Such records may be required to describe”;

(B) by striking “summary” in the third sentence;

1           (2) by redesignating paragraphs (3) through  
2           (5) as paragraphs (7) through (9), respectively;

3           (3) by inserting after paragraph (2) the fol-  
4           lowing new paragraphs:

5           “(3) REPORTING BY HOLDING COMPANIES AND  
6           OTHER MATERIAL ASSOCIATED PERSONS.—Every  
7           person, other than a natural person, who is associ-  
8           ated with (A) a registered broker or dealer, or (B)  
9           a registered municipal securities dealer for which the  
10          Commission is the appropriate regulatory agency,  
11          and whose business activities are reasonably likely to  
12          have a material impact on the financial or oper-  
13          ational condition of such registered person, including  
14          its net capital, its liquidity, or its ability to conduct  
15          or finance its operations, shall make such reports  
16          concerning the associated person’s policies, proce-  
17          dures, or systems for monitoring and controlling the  
18          financial and operation risks to the registered person  
19          and its associated persons as the Commission, by  
20          rule, prescribes. Such reports may be required to de-  
21          scribe, without limitation, each of the associated per-  
22          son’s financial and securities activities, and cus-  
23          tomary sources of capital and funding. The Commis-  
24          sion, by rule, may require such reports to be filed

1 with the Commission no more frequently than quar-  
2 terly.

3 “(4) RECORDKEEPING BY HOLDING COMPANIES  
4 AND OTHER MATERIAL ASSOCIATED PERSONS.—All  
5 persons subject to the reporting requirements under  
6 paragraph (3) of this subsection shall keep and  
7 maintain such records as are necessary to permit the  
8 Commission to verify the information contained in  
9 reports filed with the Commission pursuant to para-  
10 graph (3).

11 “(5) EXAMINATION OF HOLDING COMPANIES  
12 AND OTHER MATERIAL ASSOCIATED PERSONS.—All  
13 records of persons subject to the reporting require-  
14 ments contained in paragraph (3) of this subsection  
15 are subject at any time, or from time to time, to  
16 such reasonable periodic, special, or other examina-  
17 tions by representatives of the Commission as the  
18 Commission deems necessary or appropriate to  
19 verify the information contained in reports filed with  
20 the Commission pursuant to paragraph (3).

21 “(6) USE OF ALTERNATIVE REPORTS BY REG-  
22 ISTERED PERSONS AND THEIR HOLDING COMPANIES  
23 AND OTHER MATERIAL ASSOCIATED PERSONS.—The  
24 Commission, insofar as it determines is consistent  
25 with the purposes of this title, shall permit persons



1 subject to the reporting requirements of paragraphs  
 2 (1), (2), and (3) of this subsection, to use reports  
 3 otherwise created and maintained to meet the re-  
 4 porting requirements of those paragraphs.”; and  
 5 (4) in paragraphs (7) and (9) (as redesignated  
 6 by paragraph (2)), by striking “paragraph (1)” each  
 7 place it appears and inserting “paragraphs (1) and  
 8 (3)”.

9 **SEC. 207. LARGE TRADER REPORTING: RULEMAKING DEAD-**  
 10 **LINE.**

11 Within one year after the date of enactment of this  
 12 Act, the Securities and Exchange Commission shall take  
 13 all actions necessary to establish regulations pursuant to  
 14 section 13(h) of the Securities Exchange Act of 1934 (15  
 15 U.S.C. 78m(h)).

16 **SEC. 208. RULES, REGULATIONS, AND ORDERS; ANNUAL RE-**  
 17 **PORTS.**

18 (a) RULES, REGULATIONS, AND ORDERS.—Section  
 19 23(a)(1) of the Securities Exchange Act of 1934 (15  
 20 U.S.C. 78w(a)(1)) is amended by inserting “derivatives,”  
 21 after “and may for such purposes classify persons, securi-  
 22 ties,”.

23 (b) REPORTS.—Section 8(a) of the Market Reform  
 24 Act of 1990 is amended by striking “May 31, 1991, and

1 annually thereafter until May 31, 1995,” and inserting  
2 “May 31, 2000, and annually thereafter”.

3 **SEC. 209. CONFORMING AMENDMENTS.**

4 Section 3(a)(48) of the Securities Exchange Act of  
5 1934 (15 U.S.C. 78c(a)(48)) is amended to read as fol-  
6 lows:

7 “(48) The term ‘registered broker or dealer’  
8 means a broker or dealer registered or required to  
9 register pursuant to section 15 or 15B of this title,  
10 except that—

11 “(A) in paragraph (3)(A) of this sub-  
12 section and in section 6, the term means such  
13 a broker or dealer or a government securities  
14 broker or government securities dealer reg-  
15 istered or required to register pursuant to sec-  
16 tion 15C(a)(1)(A) of this title; and

17 “(B) in paragraph (3)(B) of this sub-  
18 section and in section 15A, the term means  
19 such a broker or dealer, a government securities  
20 broker or government securities dealer reg-  
21 istered or required to register pursuant to sec-  
22 tion 15C(a)(1)(A) of this title, or a derivatives  
23 dealer registered or required to register pursu-  
24 ant to section 15D(a)(1)(A) of this title.”.

# **TITLE III—HEDGE FUND REPORTING**

## **SEC. 301. PUBLIC REPORTING BY UNREGISTERED HEDGE FUNDS.**

Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) is amended by adding at the end the following new subsection:

“(k) REPORTS OF UNREGISTERED HEDGE FUNDS.—

“(1) FILING OF REPORTS.—No later than 15 days after the end of each calendar or fiscal quarter, every unregistered hedge fund shall submit to the Commission a report prepared in accordance with United States generally accepted accounting principles that includes the following information for each pooled investment vehicle that is part of the unregistered hedge fund:

“(A) A statement of financial condition as of the end of the quarter.

“(B) A statement of income (loss) for the quarter ended.

“(C) A statement of cash flows.

“(D) A statement of changes in equity.

“(E) A description of the models and methodologies that the pooled investment vehi-

1           cle uses to calculate, assess, and evaluate mar-  
2           ket risk.

3           “(F) Such other information and within  
4           such time period as the Commission, in con-  
5           sultation with the Secretary of the Treasury,  
6           the Chairman of the Federal Reserve Board,  
7           the Commodity Futures Trading Commission,  
8           and other appropriate regulatory agencies, may  
9           require by rule or regulation, as may be nec-  
10          essary or appropriate in the public interest or  
11          for the protection of investors, including infor-  
12          mation about sudden changes in net asset value  
13          of a pooled investment vehicle within the quar-  
14          ter, the leverage ratio of the pooled investment  
15          vehicle, and the total notional amount of the  
16          pooled investment vehicle’s exchange-traded and  
17          over-the-counter derivatives positions.

18          “(2) RULEMAKING.—The Commission shall  
19          have the authority to promulgate rules and regula-  
20          tions, as may be necessary or appropriate in the  
21          public interest or for the protection of investors, that  
22          prescribe the form of the reports required by para-  
23          graph (1) and define the terms used in this sub-  
24          section.

1           “(3) AVAILABILITY OF REPORTS.—Upon receipt  
2 of reports under paragraph (1), the Commission  
3 shall—

4           “(A) immediately transmit complete copies  
5 of the reports to the Secretary of the Treasury,  
6 the Chairman of the Federal Reserve Board,  
7 the Commodity Futures Trading Commission,  
8 and other appropriate regulatory agencies; and

9           “(B) subject to paragraph (4), make the  
10 reports widely available to the public.

11           “(4) CONFIDENTIALITY OF PROPRIETARY IN-  
12 FORMATION.—Proprietary information contained in  
13 reports shall be treated as follows:

14           “(A) If, in preparing a complete and accu-  
15 rate report under paragraph (1), an unregis-  
16 tered hedge fund includes in the report propri-  
17 etary information concerning investment strate-  
18 gies or positions, such proprietary information  
19 may, consistent with the regulations prescribed  
20 by the Commission, be segregated in a con-  
21 fidential section of the report that shall not be  
22 available to the public under paragraph (3)(B).

23           “(B) Nothing in this subsection shall au-  
24 thorize the Commission to withhold information  
25 from Congress, or prevent the Commission from

1 complying with a request for information from  
2 any other Federal department or agency re-  
3 questing the information for purposes within  
4 the scope of its jurisdiction, or complying with  
5 an order of a court of the United States in an  
6 action brought by the United States or the  
7 Board.

8 “(5) DEFINITIONS.—For purposes of this sub-  
9 section:

10 “(A) UNREGISTERED HEDGE FUND.—The  
11 term ‘unregistered hedge fund’—

12 “(i) means any pooled investment ve-  
13 hicle, or group or family of pooled invest-  
14 ment vehicles, that—

15 “(I) has total assets under man-  
16 agement of \$1,000,000,000 or more;  
17 and

18 “(II) is excepted from the defini-  
19 tion of investment company by section  
20 3(c)(1) or 3(c)(7), or is a foreign com-  
21 pany that would be required to obtain  
22 an order of the Securities and Ex-  
23 change Commission under section  
24 7(d) if it made a public offering of its  
25 securities by use of the mails and

1 means or instrumentalities of inter-  
2 state commerce; but

3 “(ii) does not include a commodity  
4 pool operator or futures commission mer-  
5 chant (as such terms are defined under  
6 section 1a of the Commodity Exchange Act  
7 (7 U.S.C. 1a)).

8 “(B) APPROPRIATE REGULATORY AGEN-  
9 CIES.—The term ‘appropriate regulatory agen-  
10 cies’ means each of the agencies that is an ap-  
11 propriate regulatory agency under section  
12 3(a)(34) of the Securities Exchange Act of  
13 1934.”.

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